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Paper No. 5

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OFFICE OF PETITIONS

In re Application of	:	
Thomas A. Koes	:	
Application No. 09/995,880	:	DECISION DISMISSING
Filed: November 29, 2001	:	PETITION
Attorney Docket No. 50884	:	

This is a decision on the petition filed April 29, 2002, requesting that the above-identified application be accorded a filing date of November 28, 2001, rather than the presently accorded date of November 29, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be forwarded to Technology Center 1700 for examination in due course with the presently accorded filing date of November 29, 2001.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on November 28, 2001, pursuant to the requirements of 37 CFR 1.10.

Paragraph (a) of 37 CFR 1.10 states that:

“Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the “Express Mail Post Office to Addressee” service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the “date-in” on the “Express mail” mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

The evidence presented by petitioner does not corroborate petitioner's allegations. The "date-in" on the USPS "Express Mail" label is illegible. As such, the date of deposit cannot be determined by the "date-in" on the "Express Mail" label. Petitioner has provided a copy of a document obtained by the USPS showing when the Office received the package, but it does not show the date the package was deposited at the USPS. Petitioner should obtain information from the USPS showing the date the package was deposited at the USPS.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents
Box DAC
Washington, DC 20232

or

U. S. Patent and Trademark Office
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

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Attn: Office of Petitions

By hand: Office of Petitions
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Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.



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